86-759 (1)

Supreme Court, U.S.
FILED
NOV 4 1986
JOSEPH F. SPANIOL, JR.
CLERK

In The Supreme Court
Of The United States.
October Term, 1986
No. _____

John E. Reardon and

for John J. Reardon

Plaintiffs,

v.

Virginia Reardon, et als

Defendants.

Appeal from an interlocutory order required to be heard by a district court panel of Three Judges.

John E. Reardon
8 Winding Way
Gibbsboro, N.J. 08026
(609) 783-6426
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Denman's Justice Pro-Se.
Membership date of 1/86

20pp

Questions Presented For Review.

1) Does a parent as defined, by the Office of personnel management, under **34 C.F.R. 300.10** Have a standing to maintain a civil action in federal court when he has been **deprived** of all rights, protection and procedural safeguards under **Eahca?**

2) Under the instant case, should an injunction be issued against the school officials who have refused and continue to refuse to comply with any portion of the EAHCA laws as it relates to the plaintiffs?

3) Does a court – federal – have the authority to re-interpret the law and supplant Federal law with state law especially when said state law is discriminatory in nature?

4) Does a judge abuse his discretion when he hears a matter on his own in violation of **28 U.S.C. 2284**?

5) Should a judge recuse himself when he fails to uphold any portion of the constitution and rights thereunder or fails to provide protections guaranteed by rule of court and case law standards for dismissal?

Parties To Suit

1) John E. Reardon, 8 Winding Way, Gibbsboro, N.J. 08026. Natural father and legally interested "parent" by way of a state court order and **34 C.F.R. 300.10**.

2) John J. Reardon, 100 Wesley Ave., Collingswood, N.J. 08108. Son of Plaintiff J.E. Reardon and classified handicapped student.

3) Virginia Reardon, 100 Wesley Ave., Collingswood, N.J. 08108.

4) Mr. McDonnel and Cathy Schilling, Tatem School, Lincoln and Washington Ave., Collingswood, N.J. 08108.

5) Mr. Cochraine, Miss Dayton, Mr. Lombard and the Collingswood Board of Education, Zane No. School, Lees and Stokes Ave., Collingswood, N.J. 08108.

6) Mary Mahon, Marshall Gordon and the Collingswood child study team, Magill and Comley Ave., Collingswood, N.J. 08108.

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Nature of the proceedings

This case involves a civil action for violation of virtually every portion of the **EAHCA** regulations and as a result the deprivation of all rights protected under the statute including the equal protection of the laws for which a state policy is in existance that, while fair on face, is in fact discriminatory in nature and allows the local agencies to proceed in any fashion they wish to evaluate children, including misclassification, to take advantage of federal funds. The plaintiffs have no right to proceed in the state on the issue in the law suit due to the fact that it involves an action taken in March 1985 and the plaintiff J.E. Reardon was totally unaware of until Nov. 1985 which was three months into the school year. Thus the action was brought under **42 U.S.C. 1983** and **20 U.S.C. 1401** et. seq. for deprivation of constitutionally and legally protected rights.

Judgement Below.

On Aug. 21, 1986 a motion for injunctive relief – temporary restraining order – was heard and the District court judge denied said relief on the same day. (See Appendix A.)

Jurisdiction

Jurisdiction of this for direct appeals comes by way of **28 U.S.C. 1253, R 12** of the Supreme court rules and by way of the case of **Zennel v. Rusk, 85 S.Ct. 1271,** where there is a right of direct appeal from a district court order that required a decision to be made by a panel of three judges.

Provisions Involved

42 U.S.C. 1983 regarding redress under color of law for any constitutional or legal deprevations.

28 U.S.C. 1343 confering jurisdiction on the court for redress of injury.

42 U.S.C. 1985 and 1983 For concerted actions and discriminatory treatment.

28 U.S.C. 2284 and **28 U.S.C. 455.**

Art. V and **Art. XIV** for deprivations of constitutional and legal rights without Due Process.

Art. XIV for failure to grant the Equal Protections of the law.

20 U.S.C. 1401 et seq. for failure to provide any of the rights processes and safeguards built therein. A total violation and failure to comply with **EAHCA.** This includes fraudulent policy, discriminatory policies and conspiracy to fail to provide as well as classifying a child on three year old reports that another state child study team rejected, and by their opinion and placement proved the child is not handicapped. Which shows that recent actions by the Collingswood child study team was carried out so as to protect the states unconstitutional, discriminatory and fraudulent policies and practices to protect their interest in the **EAHCA** funds.

Statement of the Case

In March 1985 the Plaintiff J.J. Reardon was processed under **EAHCA** unbeknownst to the Plaintiff J.E. Reardon. When the Plaintiff J.E. Reardon discovered the child was having problems and began to inquire into the problems, he only then learned of the subsequent placement of the child three months into the school year. Every right under **EAHCA** and every procedural safeguard was totally and unequivacably denied. When the defendants refused to cooperate with the plaintiff, he filed suit in District court in New Jersey. (case n. 86-408)

At the pretrial conference the plaintiffs moved to have any further evaluations be stayed and any attempted new placement be stopped and plaintiffs request was denied. The defendants did continue with the evaluation and placement in violation of **34 C.F.R. 300.513** and their own state statutes **N.J.A.C. 1:6A-5.4.** Thus not wishing to prejudice the plaintiffs position, he attended and signed the I.E.P. but signed it under protest and fact that the defendants did fraudulantly obtain the plaintiffs signa-

ture. (there is a tape recording to prove this.) One week later the plaintiff rescinded his consent in conformance with **34 C.F.R. 300.500(c).** When it was apparent the requested independent evaluation would not be provided and the placement would go through an order to show cause to compel compliance with **34 C.F.R. 300.513** with temporary restraints was filed and Judge Brotman heard the matter instead of the required three judge panel in compliance with **28 U.S.C. 2284.** Because this judge has and continues to be prejudiced against the plaintiff and has refused to allow him to maintain any action involving his constitutional and legal rights, the judge naturally denied the motion by supplanting federal law with state law. Thus he has enforced and sanctioned the unconstitutional, fraudulent and discriminatory practices to continue in the state to allow them to deny "parents and Children" their rights and thus commit a fraud on the government and public by accepting money and aid when they refuse to comply with the laws.

Statement of the facts

The district court judge and defendants know all of the following:

1) **Art. VI** of the U.S. Constitution places it and all federal laws as the Supreme laws of the land.

2) The Office of Personnel Management (OPM) is granted the interpretive power of all acts of congress that are administrative in nature.

3) **34 C.F.R. 300.10** defines "parent" as "A parent", ... or "any person who has a legal interest in the welfare of the child".

4) The state court order of March 1984 granted the plaintiff J.E. Reardon such a legal interest.

5) In March 1984 the defendants admitted – through a series of letters – their responsibility to the plaintiff.

6) Contrary to this known and admitted responsibility, the defendants failed to comply with any portion of **EAHCA** as it pertains to the plaintiff.

7) The case at **545 F.Supp. 1220, 1222** has ruled that failure to provide parental participation moots the program.

8) State law now forecloses the plaintiff of any access to redress the 1985 actions in the state.

9) The classification in 1985 was carried out in violation of **34 C.F.R. 300.532 & .534** by relying on reports that were proven to be wrong and the child was not handicapped.

10) The new reports were taken in violation of the rules of evidence in any adversarial proceeding and the right of an incompetant and complaining party to have counsel present which is also in violation of due process mandates.

11) The approval of said program was obtained by means of a conspiracy and fraud.

12) Despite the above, the reports were admitted into evidence, and relied on by the district court. **(See Dykes vs. Hoseman, 743 F.2d 1488, 1493, 1494)**

13) The plaintiff rescinded his consent in writing.

14) This court ruled in **Smith vs. Brown, 104 S.Ct. 3469** that a subtantive **"Equal protection"** claim could be sustained under **42 U.S.C. 1983** and that the state has implimented a law that is "fair on face" but discriminatory in nature due to OPM's interpretation at **34 C.F.R. 300.10** and fact that the state statutes **N.J.A.C. 1:6A-1.1** et seq. cite the statute regulations for reference and that **1:6A-1.1(b)** says that "where state statute could be **construed as conflicting** with federal law, the federal law will prevail."

15) **N.J.A.C. 1:6A-1.1(c)** also states that the state statutes may not be relaxed.

16) Without notice, the defendants lacked any jurisdiction to act in accordance with **Rosenberg, 64 Va.L.R. 844, 850** and **Rankin vs. Howard, 633 F.2d 844, cert. den. 101 S.Ct. 2020.**

17) That in light of the statute provisions in #'s 14 & 15 above, the defendants also lacked jurisdiction over the subject by way of this courts decision in **Stump vs. Sparkman, 98 S.Ct. 1099, 1105, 1106.**

18) The case of **Quackenbush 716 F.2d 145, cert. den. 104 S.Ct. 1426** has found that where parties are deprived of their rights it is grounds for action under **42 U.S.C. 1983.**

19) State statute **6:28-2.7** forecloses the plaintiff from any access to review of the 1985 action and thus the plaintiffs were even deprived of their guaranteed rights of "Due Process" as set

out in **EAHCA.**

20) That Sen. Williams commented that the state scheme is not necessary to utilize when said process is indeed futile. **(121 Cong. Rec. 37416, 104 S.Ct.** @ 3470, ftnt. 17.)

21) Under all common requirement of common law the 1986/1987 evaluation is prejudicial and was obtained illegally and can be equated to the case of **State of N.J. vs. Utash, 184 N.J. Super. 575, 578, 581** and **28 U.S.C. 455** which requires a judge to recuse himself from hearing a case when his credibility has been attacked due to the personal interest of his own competance being at stake.

22) OPM is granted the right by congress who mandates that they interpret and impliment regulations for compliance with administrative laws.

23) OPM has set out a very extensive regulatory scheme to be complied with and has also provided the appropriate interpretations of the laws.

24) Congress has stated at page **1428 of P.L. 94-142** that meetings for the development of an I.E.P. and evaluation of children must be provided to any interested person and the state law only provides it to "Custodial Parents".

25) The states responsibility is to the federal laws, its interpretations, its requirements and any person entitled to rights under **EAHCA** and not what state laws may be **implied** to say.

26) All defendants have taken an oath to uphold the constitution of the U.S.

27) All defendants were prohibited by law from failing to comply with the laws especially in light of #'s 3-5 above.

28) The court has allowed the 1986/1987 evaluation to supplant the purpose of the lawsuit which was deprivations of rights which occured in 1985.

29) The standard in 28 would be equivalent to saying the following:

A) JOHN DOE is thrown in jail without any due process whatsoever.

B) When it is apparent he might cause a problem, a "mock trial" is set up.

C) He is given no alternative but to participate.

D) He is given controlled discovery.

E) He goes to trial and is naturally found guilty and placed back in jail.

thus the judge contends that the "rigged" trial is O.K. and the fact he was given a hearing now negates his right to sue for the false imprisonment to begin with and the "mock" trial to keep him there. This is appropriate here because it involves the very welfare and safety of a child, the equivalent actions here for above are:

A) John Doe is improperly and illegally classified and deprived of all his procedural rights and safeguards.
B) The "parent" subsequently finds out and begins to raise hell and show some knowledge of the law.
C) Despite requests of both the defendants and the court, the new evaluation and placement is refused to be stayed and plaintiff is given no alternative but to cooperate to at least try and protect the child.
D) He is denied any access to discovery or an independent evaluation and his consent is obtained by fraud.
E) The program is approved anyway and the courts accept all actions taken place.

Thus, the courts now find the plaintiffs right to proceed are in jeopardy because he cooperated with no other choice.

30) Plaintiffs have no other avenue to address the 1985 actions other than through court and through **42 U.S.C. 1983** and the court has indicated he must exhaust administrative remedies to a problem that is long past addressing or having a right to address.

31) The defendants did breach – twice – a special voluntary trust as spelled out in **Thompson vs. N.Y. 487 F.Supp. 212, 217.** First in 1985 when it failed to provide the plaintiff with any rights under **EAHCA,** and then in 1986 when it again accepted plaintiffs contention and then turned around again and stated it owed no responsibility to the plaintiff.

32) The policy carried out here is carried out state wide, is knowingly carried out and practiced and thus goes to affect a large group of "Parents" who are denied their rights under **EAHCA.**

33) State custody orders are temporary in nature.

34) This court ruled that the liberty interest of a natural parent in the care, custody and management of his children is a liberty interest protected by the **14th amendment** of the constitution.

(Santosky vs. Kramer, 102 S.Ct. @ 1390.)

35) The state court order granted the protection of that interest and that Special Education involves the care and management of the plaintiffs children which was also violated by failing to comply with the **EAHCA** regulations.

36) This court ruled in **Addickes vs. Kress, 398 U.S. 144** that if there is conduct that violates a persons constitutional rights and also violates some statute that does not give a right to sue or recover damages, the constitutional deprivations are still maintainable.

37) The defendants also placed the childs emotional well being and safety in jeopardy by not only classifying him for "improper behavior", but then even continued to punish him for that same behavior in the special education class in violation of **N.J.S.A. 6:28-2.8(a)1** and **Anderson vs. Thompson, 658 F.2d 1206.**

38) All of the above demonstrates, at minimum, the type of eggregious conduct the lower courts have ruled that if it exists would be permissable to hold parties liable for damages under **EAHCA.**

39) The courts were established to settle controversies and render justice and not create controversy and support injustice. Where laws have been interpreted by the courts, congress or appropriate agency, the courts responsibility is simply to apply the law to settle the dispute and not re-interpret it.

40) The actions above would render the judicial system totally useless because any agency, any judge, etc. could take it upon himself to modify or change the laws at will and thus we would reduce our government to a system of men and not laws of which we boast. **(Justice Blackman, 51 LW @ 5030)**

Importance of Questions

1) There is an extremely public interest involved here for two reasons:

A) The policies of the state has been to grant only those parents it choses to call parents and thus continues to deprive hundreds or even thousands of parents in their rights under **EAHCA** and the **"Equal Protections"** of

the laws, and

B) This then goes to demonstrate the states willingness to falsely claim compliance with the **EAHCA** laws and thus take advantage of federal funds regardless of the rights of the beneficiaries protected by the laws and more importantly by accepting public taxpayers funds for aide while failing to comply with the laws and their requirements.

The above commits a fraud on both the Public in general – taxpayers –, the government and the beneficiaries of the law.

2) The facts above clearly shows that the state has not only failed and refused to comply with **EAHCA,** and refuses to so comply even after it has admitted responsibility. The plaintiff would point out that he has a taped conversation with one of the defense counsels who stated that if the plaintiff did not cooperate with him, he would do whatever he could to drag this case out. Thus, it is quite clear that the defendants do not intend to comply with the laws for this plaintiff and injunctive relief is the only alternative.

3) The public importance here is the right of any court to alter and change the law at will to render justice only as it determines is appropriate, thus we have a court who is attempting to abdicate his responsibility to the constitution and make himself out to be a ruler, a dictator, a "Ceasar". If the courts or judges are permitted to throw away the constitution or laws as legally interpreted by proper authority without first declaring the laws or interpretations unconstitutional, utter chaos would abound throughout our entire system of government. Once one person has abdicated, another may so chose to do and so on till we end up with a revolution, or at minimum, a total breakdown of the system with no one wanting to comply with or obey the law.

Thus with the above in mind, it is imperative that the courts be given a full opportunity to hear all aspects of these problems in the interest of justice and commity.

Abuse of discretion

I) Congress has stated in the text "**The U.S. Constitution-**

Interpretation and analysis" ordered under **2 U.S.C. 168** that **28 U.S.C. 2284** (three judge panel), at page 771 of the text, has been interpreted by this court to mean and require that a panel of three judges is necessary to hear any matter which asks the court to mandate officials comply with state and federal laws. The plaintiffs Aug. 21 motion was just such a request. He requested that the state be ordered to comply with **34 C.F.R. 300.513** as required by OPM and as required by the state in their statutes under **N.J.A.C. 1:6A-5.4.** Thus the district court judge abused his discretion by hearing a matter that required three judges to decide. But this is just par for the course for this judge as he has and continues to demonstrate a clear and hostile attitude toward this plaintiff and all pro-se plaintiffs who are aggressive and intelligent.

This judge has willfully set his impunity at defiance with the laws and constitution and has dared the plaintiff – due to his lack of expertise – to overturn his rulings. This can be exampled as follows:

A) In January 1985 another knowledgeable pro-se was before the judge and the judge stated to that pro-se, who relied heavily on the law, that he was in his court and only he will decide what the law is.

B) The judge has acted as a proponent in all of the plaintiffs cases as demonstrated as follows: i) he has failed to comply with the requirements under **716 F.2d 1109, 1112.**, ii) He looks up case law to protect parties who not only fail to appear in court but who fail to even answer the complaint., iii) He refuses to comply with the rules and case law practice of drawing reasonable inferences, taking all statements as being true, allowing amendments to correct deficiencies and refuses to allow the plaintiff to bring any violation of his constitutional and legal rights to court which is a violation of the plaintiffs constitutional rights to redress the grievances under **Art. I of the U.S. Constitution.**, and iv) He supplants federal law with state law and even throws away the federal law if it has already been interpreted to satisfy his idea of justice.

All of the above clearly shows the judge has abused his discretion not only in hearing the matter but demonstrates why,

that is to say, he has a clear anamous for aggressive and intelligent Pro-Se's who want to protect their rights and he thus willfully rules against them and thus dares them to prove he is wrong because he knows the odds of a Pro-Se who lacks knowledge of procedure will in all likelihood fail, and not because he is wrong, but because he lacks the experience and knowledge necessary to get the higher courts to review the papers to show that he is wrong. Thus his malicious, meritless, and hostile actions and rulings go un-noticed and unchallenged and he is permitted to create injury and delay cases because of his warped sense of justice and what is right.

II) Under this question, the abuse of discretion is in the fact that the law suit involves an action taken in 1985. The law says that when the administrative or judicial process is sought that the child will remain in his status-quo position. In 1985, the child was in regular classes. Thus, what the judge has done is to supplant the illegal 1986/1987 evaluation and decision to replace the actions taken in 1985 which were never addressed and given opportunity to be addressed. On top of that he wishes to hold the plaintiff responsible because the state officials were barred not only by the state and federal **EAHCA** laws from further proceeding, but were also barred by the rules of evidence and methods of obtaining such evidence as well as **"Due Process"** rights of obtaining said evidence in any adversarial proceeding. This judge has distorted and twisted and subvert and perverted the laws until they have become so obscure that this individual – in this court – has absolutely no right or no protections under the laws or constitution. This judge has abused his discretion because he refuses to afford this plaintiff the **"Equal Protections"** of the law as to any right and he has manipulated the law to the point that it is non-existant as well as the constitution. The case law says that when a state refuses to comply with the law that injunctions are in order and that is precisely what is happening here. But more importantly, the Judge himself is participating in the willful violations of the law by permitting the state to get away with it and then placing the plaintiff at fault because he was given no alternative but to cooperate to at least try and protect the child.

III) The abuse of discretion here is quite clear. Congress set up OPM and granted them the authority to interpret and make

regulations which require compliance with Federal laws. Where said laws have been interpreted and are so placed before the court, the courts responsibility at that point is simply to enforce the law as interpreted and not create controvercies. That is precisely what is at stake here. If the judge is not aware of any interpretation of the laws or that one exists, he may so interpret and such a decision would be subject to review due to error. But when the judge is told of the law and that it has already been interpreted, the judge can not re-define the law for that is clearly abuse of authority. If this judge is permitted to re-shape the law at will, then the constitution and what it stands for is non-existant and the people should then have the right to abdicate and overthrow the government or at least be permitted to violate any law it wants and get away with it under its private right to so interpret the laws as it sees fit under **Art. X** of the constitution. Imagine the type of chaos and total disorder that would exist if everyone were to be able to re-interpret or re-define the laws at will. What this judge has done is to reduce our system of government to one of men and not of laws. **(See 51 LW @ 5030)** Thus he has thrown away the long standing intent and interpretation of **Art. VI of the U.S. Constitution.**

Conclusions

Thus, the plaintiffs have a standing to sue in federal court, they have no other avenue of redress but the courts, they have been denied their rights under **EAHCA,** the judge has heard a matter in violation of the mandates of **28 U.S.C. 2284,** the judge has violated the mandates of **28 U.S.C. 455,** the judge has violated his oath of office, the judge has found the constitution to be non-existant and that there are no rights the plaintiffs has that are protected thereunder and enforceable thereunder, the plaintiff can prove his case and the illegal reckless, eggregious and discriminatory conduct of the defendants and the judge should recuse himself from all cases of this plaintiff, all orders in all cases should be overturned and the plaintiffs should be granted a change of venue to a surrounding state due to the conduct of the

court and its personnel and problems the plaintiff has encountered.

I hereby certify under penalty of perjury that all of the foregoing is true and accurate to the best of my knowledge.

Dated: 10/28/86

John E. Reardon

John E. Reardon for the Plaintiffs.

In The Supreme Court
Of The United States
October Term, 1986
No. _____

John E. Reardon and For John J. Reardon	;	
Plaintiffs	;	
v.	;	Certification of mailing
Virginia Reardon, et als	;	
Defendants.	;	

I hereby certify that a copy of the attached papers have been sent regular mail to The defendant Reardon at 100 Wesley Ave., Collingswood, N.J. 08108. Robert Eyer at 1101 Kings Highway N., Suite 303, Cherry Hill, N.J. 08034-1968 (Defense Counsel). Miss Janice Izes at 2615 Rt. 38, Suite 200 - Tiffany Sq., Mt. Holly, N.J. 08060 (Defense Counsel). Mr. Mahoney at 147 Columbia Turnpike, So. Orange Ave., Florham Park, N.J. 07932 (Defense Counsel).

John E. Reardon

John E. Reardon for the
Plaintiffs.

Dated: 10/28/86

Appendix A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JOHN E. REARDON and for JOHN J. REARDON 8 Winding Way Gibbsboro, New Jersey 08026 Plaintiffs, vs. VIRGINIA E. REARDON, et al., Defendants.	:	Civil Action #86-0408 (SSB) O R D E R

This matter having come before the court on August 21, 1986; and

The court having reviewed the submissions and arguments of the parties; and

For the reasons stated in this court's oral opinion filed this date (Stephen J. Daner, Official Court Reporter);

IT IS on this 21st day of August, 1986, hereby

ORDERED that plaintiff's motion for a temporary restraining order and an accompanying order to show cause why preliminary injunctive relief should not be entered is DENIED.

No costs.

STANLEY S. BROTMAN
UNITED STATES DISTRICT JUDGE